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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RONALD GODBOLT,

Plaintiff,

v.

CARLOS L. SANTANA, UNITED
STATES POSTAL SERVICE, et al.,

Defendants.

NOTICE OF REMOVAL

To: Clerk
Superior Court of New Jersey
Law Division: Mercer County
175 S Broad Street
Trenton, NJ 08608

Stuart A. Tucker, Esq.
Szaferman, Lakind, Blumstein &
Blader, P.C.
101 Grovers Mill Road, Ste 200
Lawrenceville, NJ 08648
Attorney for Plaintiff

PLEASE TAKE NOTICE that this case, previously pending in the Superior Court of New Jersey, Law Division, Mercer County, bearing docket number MER-L-1675-20, is removed to the United States District Court for the District of New Jersey, under 28 U.S.C. § 2679(d) and 28 U.S.C. § 1442(a)(1). The United States of America is hereby substituted for Defendants Carlos L. Santana and the United States Postal Service pursuant to 28 U.S.C. § 2679(d)(2). The United States, now substituted as defendant in this matter, through its attorney, Craig Carpenito,

United States Attorney for the District of New Jersey (Thandiwe Boylan, Assistant United States Attorney, appearing), states as follows upon information and belief:

1. Plaintiff Ronald Godbolt has named Carlos L. Santana and the United States Postal Service in an action now pending in the Superior Court of New Jersey, Civil Division, Mercer County, Docket No. MER-L-1675-20.

2. Plaintiff filed the Complaint in that action on or about September 22, 2020. (A copy of the Summons and Complaint and other papers served on defendants are attached hereto as **Exhibit A**).

3. Plaintiff seeks damages from the United States Postal Service for allegedly sustaining personal injuries during a motor vehicle accident as the result of tortious conduct by Defendant Carlos L. Santana, an employee of the United States Postal Service acting within the scope of his employment at the time of the accident.

4. Pursuant to 2679(d)(2) of the Federal Tort Claims Act, and 28 C.F.R. § 15.4, the United States Attorney's Office has certified that Carlos L. Santana was acting within the scope of his federal office or employment with the United States Postal Service at the time of the incident out of which the plaintiff's claims arose. A Certification of Scope of Employment is attached as **Exhibit B**.

5. Section 2679(b) of Title 28 of the United States Code, as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988, Pub. L. No. 100-694, 102 Stat. 4563 (1988), provides that the Federal Tort Claims Act ("FTCA")

is the exclusive remedy for tort claims against the United States. Carlos L. Santana has personal immunity and the United States is the only cognizable and proper defendant as to the Plaintiff's state law tort claims alleged against him in this action. Moreover, as a result of the Certification of Scope of Employment, this action is now deemed to be brought against the United States.

6. The United States District Courts have exclusive jurisdiction over tort actions filed against the United States under the FTCA. *See* 28 U.S.C. §§ 1346(b) and 2679.

7. Federal law directs that “[u]pon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court *shall be removed without bond at any time before trial* by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending.” 28 U.S.C. § 2679(d)(2) (emphasis added). On information and belief, no trial date for this matter has been set by the state court.

8. Accordingly, the United States District Court for the District of New Jersey has exclusive jurisdiction over this action under 28 U.S.C. § 1346(b), and Defendants may properly remove the case to this Court pursuant to 28 U.S.C. § 2679(d)(2).

9. No answer to the Complaint has been filed in the state court on behalf

of Carlos L. Santana or the United States Postal Service.

10. Defendants will file a copy of this Notice of Removal with the Clerk of the Superior Court of New Jersey, Mercer County, Law Division.

THEREFORE, in accordance with 28 U.S.C. §2679, the above-captioned action filed in the Superior Court of New Jersey, Civil Division, Mercer County, is now removed to this Court with the United States substituted as defendant for further proceedings.

Dated: Newark, New Jersey
October 26, 2020

Respectfully submitted,

CRAIG CARPENITO
United States Attorney

By: *s/ Thandiwe Boylan*
Thandiwe Boylan
Assistant United States Attorney
Attorneys for Defendants